

REMARKS

Claims 1-17, 19-21 are pending in the present application. In an Office Action mailed May 3, 2005, the Examiner rejected claims 1-17, and 19-21.

CLAIM REJECTIONS – 35 U.S.C. § 112, SECOND PARAGRAPH

The Examiner rejected claims 1-17 and 19-21 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The rejection appears to be directed to the meaning of the word “building.” Applicant asserts that, in the context of the Specification, “building” would be known to one of ordinary skill in the art as a land-based, fixed structure such as an office tower. However, purely as a matter of clarification, claims 1, 9, 16, and 21 have been amended. Applicant asserts that the amended claims are allowable over the rejection.

Specifically, claim 1 has been amended in the preamble to recite the air handling unit being “mountable on a building having a roof.”

Claim 9 has been amended in the preamble to recite the air handling unit being “fixedly mounted on a non-movable edifice.”

Claim 16 has been amended in the preamble to recite the air handling unit being “fixedly mounted on a fixed structure.”

Claim 21 has been amended in the preamble to recite the air handling unit for “a building having a roof” and “the air handling unit being adapted for mounting on the roof of the building.”

The Office Action also rejected claim 1 as referring to “a hinged door engaging the frame.” As suggested, the claim has been amended to “a hinged door engageable with the frame” purely as a matter of clarification.

CLAIM REJECTIONS – 35 U.S.C. §102

The Examiner rejected claim 21 under 35 U.S.C. § 102(b) as being anticipated by Odell et al.

A single prior art reference anticipates a claimed invention only if it discloses each and every claim element.

As currently amended, Odell does not disclose:

A door and frame in combination with an air handling unit for a building having a roof, wherein the door and frame can withstand a pressure differential of greater than six inches of air pressure, the air handling unit being adapted for mounting on the roof of the building.

Odell is directed to aircraft door assemblies, not to an air handling unit for a building having a roof, the air handling unit being adapted for mounting on the roof of the building..

Claim 21 is therefore allowable.

CLAIM REJECTIONS – 35 U.S.C. § 103

The Examiner rejected claims 1-4, 8-11 and 15 under 35 U.S.C. § 103(a) as unpatentable over allegedly admitted prior art in Fig. 1 in view of McDonald, Ryan and Gamow. Applicant respectfully traverses this rejection as prospectively applied to the amended claims.

For a rejection under 35 U.S.C. § 103(a) to be proper, both references when combined must disclose every element and limitation of the claim to which the references are applied.

As to amended claim 1, the cited references do not teach:

A door and frame in combination with an air handling unit mountable on the roof of a building, the combination comprising:

- (a) a frame;
- (b) a hinged door engaging the frame, the door comprising a front wall, rear wall, and side walls

enclosing a hollow core and insulating material filling the hollow core; and

(c) a gasket between the door and the frame, the gasket further comprising a flexible gasket wall with anti-roll extensions;

wherein the door and frame can withstand a pressure differential of greater than six and one-half inches of air pressure.

Accordingly, a rejection as obvious under § 103(a) is inapposite. Claim 1 is therefore allowable.

Gamow is also non-analogous art.

To rely on a reference under 35 USC 103, it must be prior art.¹ "In order to rely on a reference as the basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor is concerned."²

"A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."³

As to Gamow, it is clearly not in the field of Applicant's endeavor. Gamow is also not reasonably pertinent to the particular problem with which the inventor is concerned, which is a door for an air handling unit mountable on the roof of a building. Gamow deals with the problem of a portable hypobaric chamber for acclimatization to high altitude or athletic conditioning which is capable of

¹ MPEP 2141.01(a)

² *id.*

³ *id.* (citing *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992))

maintaining at least about 0.1 psi below ambient air pressures. Abstract, Col. 2 lines 59-63. A person of ordinary skill in the art would not reasonably have expected to solve the problem of a door for an air handling unit on the roof of a building by considering a reference dealing with a portable hypobaric chamber for acclimatization to high altitude or athletic conditioning which is capable of maintaining at least about 0.1 psi below ambient air pressures.

Claims 2-4 and 8 contain additional elements or limitations beyond allowable claim 1 and are also allowable.

Claims 9-11 are allowable for the reasons given above in regard to claim 1.

Claim 15 contains additional elements or limitations beyond allowable claim 9 and is also allowable.

The Examiner rejected claims 5 and 12 under 35 U.S.C. § 103(a) as unpatentable over allegedly admitted prior art in view of McDonald, Ryan and Gamow as applied to claims 1-4, 8-11 and 15, and further in view of Colliander.

Claim 5 contains additional elements or limitations beyond allowable claim 1 and is also allowable.

Claim 12 contains additional elements or limitations beyond allowable claim 9 and is also allowable.

The Examiner rejected claims 6, 7, 13, and 14 under 35 U.S.C. § 103(a) as unpatentable over allegedly admitted prior art in Fig. 1 in view of McDonald, Ryan and Gamow as applied to claims 1-4, 8-11 and 15, and further in view of Jansen.. Applicant respectfully traverses this rejection as prospectively applied to the amended claims.

Claims 6 and 7 contain additional elements or limitations beyond allowable claim 1 and are also allowable.

Claims 13 and 14 contain additional elements or limitations beyond allowable claim 9 and are also allowable.

The Examiner rejected claims 16, 17, 19 and 20 under 35 U.S.C. § 103(a) as unpatentable over allegedly admitted prior art in view of McDonald. Ryan and Gamow as applied to claims 1-4, 8-11 and 15, and further in view of Colliander and Jansen. Applicant respectfully traverses this rejection as prospectively applied to the amended claims.

Claim 16 is allowable for the reasons given above with respect to claim 1. In addition, none of the cited references disclose the door and frame capable of withstanding a pressure differential of greater than eleven inches of air pressure.

Claims 17, 19, and 20 contain additional elements or limitations beyond allowable claim 16 and are also allowable.


In view of the above remarks, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of Applicant's remarks, the claims are believed to be in condition for allowance. Reconsideration, withdrawal of the rejections, and passage of the case to issue is respectfully requested.

Respectfully submitted,

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